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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Fiscal Year 2017 Annual List of Certifications and Assurances for

Federal Transit Administration Grants and Cooperative Agreements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the Federal Transportation Administration's (FTA) Fiscal Year (FY) 2017 Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements, which can be found at FTA's Web site, www.transit.dot.gov/certs. This notice provides a condensed list of the pre-award Certifications and Assurances that may apply to an Applicant to FTA for federal assistance and the Award that may be made in FY 2017. This notice also describes both the Applicant and FTA's responsibilities with respect to the Certifications and Assurances and highlights the differences between the FY 2017 Certifications and Assurances and those published for FY 2016. Each Applicant to FTA for federal assistance must submit the Certifications and Assurances that apply to it and any Award for which it seeks federal assistance during FY 2017. An Applicant to FTA typically acts through its authorized representative (You). You, as the Applicant's Authorized Representative, must have the authority to sign the Applicant's Certifications and Assurances and to bind your Applicant's compliance with the Certifications and Assurances you select on its behalf. Your Applicant's Certifications and Assurances must be affirmed by your Applicant's attorney. This notice provides instructions on how and when you should submit your Applicant's Certifications and Assurances for FY 2017.

EFFECTIVE DATE: These FY 2017 Certifications and Assurances are effective October 1, 2016, the first day of FY 2017.

FOR FURTHER INFORMATION CONTACT: The appropriate Regional or Metropolitan Office listed in this notice. For copies of related documents and information, see our Web site at www.transit.dot.gov/certs or contact our Office of Administration at 202-366-4007.

Region 1: Boston

States served: Connecticut,
Maine, Massachusetts,
New Hampshire, Rhode Island
and Vermont
Telephone # 617-494-2055

Region 2: New York

States served: New York and
New Jersey
Telephone # 212-668-2170

Region 3: Philadelphia

States served: Delaware, Maryland,

Pennsylvania, Virginia,
West Virginia, and the
District of Columbia
Telephone # 215-656-7100

Region 4: Atlanta

States served: Alabama, Florida
Georgia, Kentucky, Mississippi,
North Carolina, South Carolina,
and Tennessee,
Territories served: Commonwealth of Puerto Rico
and the U.S. Virgin Islands
Telephone # 404-865-5600

Region 5: Chicago

States served: Illinois, Indiana,
Michigan, Minnesota, Ohio,
and Wisconsin
Telephone # 312-353-2789

Region 6: Dallas/Ft. Worth

States served: Arkansas,
Louisiana, New Mexico,

Oklahoma, and Texas

Telephone # 817-978-0550

Region 7: Kansas City

States served: Iowa, Kansas,

Missouri, and Nebraska

Telephone # 816-329-3920

Region 8: Denver

States served: Colorado, Montana

North Dakota, South Dakota,

Utah, and Wyoming

Telephone # 303 362-2400

Region 9: San Francisco

States served: Arizona, California,

Hawaii, and Nevada,

Territories served: Guam, American Samoa,

and the Northern Mariana Islands

Telephone # 415-734-9490

Region 10: Seattle

States served: Alaska, Idaho,

Oregon, and Washington

Telephone # 206-220-7954

Chicago Metropolitan Office

Area served: Chicago Metropolitan Area

Telephone # 312-353-2789

Los Angeles Metropolitan Office

Area served: Los Angeles Metropolitan Area

Telephone # 213-202-3950

Lower Manhattan Recovery Office

Area served: Lower Manhattan

Telephone # 212-668-2170 212-668-1770

New York Metropolitan Office

Area served: New York Metropolitan Area

Telephone # 212-668-2170

Philadelphia Metropolitan Office

Area served: Philadelphia Metropolitan Area

Telephone # 215-656-7100

Washington DC Metropolitan Office

Area served: Washington DC Metropolitan Area

Telephone # 202-219-3562 / 202-219-3565

Puerto Rico Office

Area Served: Commonwealth of Puerto Rico

Telephone # 787-771-2537

SUPPLEMENTARY INFORMATION:

1. What are FTA's Responsibilities?

The second sentence of 49 U.S.C. 5323(n) states in pertinent part that, “[t]he Secretary [of Transportation] shall publish annually a list of all certifications required under this chapter [49 U.S.C. chapter 53]” The first sentence of 49 U.S.C. 5323(n) states that, “[a] certification required under this chapter [53] and any additional certification or assurance required by law or regulation to be submitted to the Secretary [who delegated that authority to the Federal Transit Administrator] may be consolidated into a single document to be submitted annually as part of a grant application under this chapter [53].” Therefore, FTA has assembled those Certifications and Assurances into the following twenty-three (23) categories:

Category 01. Required Certifications and Assurances for Each Applicant,

Category 02. Lobbying,

Category 03. Procurement and Procurement Systems,

Category 04. Private Sector Protections,

- Category 05. Rolling Stock Reviews and Bus Testing,
- Category 06. Demand Responsive Service,
- Category 07. Intelligent Transportation Systems,
- Category 08. Interest and Financing Costs and Acquisition of Capital Assets by Lease,
- Category 09. Transit Asset Management Plan and Public Transportation Agency Safety Plan,
- Category 10. Alcohol and Controlled Substances Testing,
- Category 11. Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement),
- Category 12. State of Good Repair Program,
- Category 13. Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs,
- Category 14. Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program,
- Category 15. Enhanced Mobility of Seniors and Individuals with Disabilities Programs,
- Category 16. Rural and Appalachian Development Programs,
- Category 17. Tribal Transit Programs (Public Transportation on Indian Reservations Programs),
- Category 18. State Safety Oversight Grant Program,
- Category 19. Public Transportation Emergency Relief Program,
- Category 20. Expedited Project Delivery Pilot Program,

Category 21. Infrastructure Finance Programs,

Category 22. Paul S. Sarbanes Transit in Parks Program, and

Category 23. Construction Hiring Preferences.

Since 1995, FTA has consolidated the pre-award Certifications and Assurances required by law or regulation into a single document for publication in the **Federal Register**. To receive federal assistance appropriated or made available for the Grant, Cooperative Agreement, Loan, Loan Guarantee, Line of Credit, and Major Credit Instrument programs FTA/DOT administers, your Applicant must submit the annual Certifications and Assurances required for the type of federal assistance it seeks.

These FY 2017 Certifications and Assurances supersede any Certifications and Assurances published in an earlier fiscal year. After publication in the **Federal Register**, each Applicant must submit applicable FY 2017 Certifications and Assurances before FTA may award federal assistance to support that Applicant's request.

2. What is The Legal Effect of these Certifications and Assurances?

a. Pre-Award Representations. These Certifications and Assurances are pre-award representations typically required by federal law or regulation that your Applicant must submit before FTA may provide federal assistance for its Award. In general, these FY 2017 Certifications and Assurances are effective October 1, 2016, except as FTA determines otherwise in writing.

Upon publication in the **Federal Register**, FTA may not provide federal assistance until you submit your Applicant's FY 2017 Certifications and Assurances.

b. Binding Commitment. Your Applicant must comply with any Certifications

or Assurances you make on its behalf, irrespective of whether you remain your Applicant's authorized representative. When you submit its Certifications and Assurances to FTA, both you and your Applicant are agreeing to comply with those terms.

c. Length of Commitment. Your Applicant's FY 2017 Certifications and Assurances remain in effect until its Award is closed or the end of the useful life of its federally assisted assets, whichever is later. If your Applicant provides different Certifications and Assurances in a later fiscal year, the later Certifications and Assurances will usually apply, except as FTA determines otherwise in writing.

d. Duration. You and your Applicant may use the FY 2017 Certifications and Assurances at FTA's Web site, www.transit.dot.gov/certs to support applications for federal assistance until FTA issues its FY 2018 Certifications and Assurances.

e. The FY 2017 Certifications and Assurances Are Not a Complete List of Federal Requirements. FTA cautions that the FY 2017 Certifications and Assurances focus mainly on those representations that your Applicant is required to submit to FTA before FTA may award federal assistance. Consequently, these Certifications and Assurances do not include many other federal requirements that will apply to your Applicant and its Award. Your Applicant is responsible for compliance with all applicable federal requirements.

f. Federal Requirements. In addition to the information in this notice and FTA's FY 2017 Apportionments Notice, which will be published separately from this notice, FTA also strongly encourages you and your Applicant's staff and prospective and current Third Party Participants to review all federal legislation, regulations, safety directives, and guidance that apply to them and to your Applicant's proposed Award. The

FY 2017 Master Agreement identifies many of those requirements and applicable guidance, and may be accessed at www.transit.dot.gov.

g. Penalties for False or Fraudulent Statements. If you provide any false or fraudulent statement to the Federal Government on behalf of your Applicant or yourself, you may incur both federal civil and criminal penalties under the following statutes:

(1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq.,
(2) U.S. Department of Transportation (U.S. DOT) regulations, “Program Fraud Civil Remedies,” 49 CFR part 31, and (3) Section 5323(l)(1) of title 49, United States Code, which authorizes federal criminal penalties and termination of federal assistance if you provide, on behalf of your Applicant or yourself, a false or fraudulent certificate, submission, or statement in connection with the Federal Transit Program authorized by 49 U.S.C. chapter 53.

3. What are Your Responsibilities?

a. Make sure that all involved with your Applicant’s Award understand the federal requirements that will apply to your Applicant and its Award. FTA strongly advises you, as your Applicant’s authorized representative, to read this notice and the Certifications and Assurances on the FTA Web site www.transit.dot.gov before selecting Certifications and Assurances on behalf of your Applicant. FTA also advises you to read the information accompanying the apportionment tables when FTA publishes its FY 2017 Apportionment Notices.

Your Applicant is responsible for compliance with all federal requirements that apply to itself and its Award. Other entities and people, including Subrecipients,

Third Party Contractors, and Third Party Subcontractors (Third Party Participants) can adversely affect your Applicant's ability to comply with those federal requirements.

Accordingly, all Third Party Participants involved in its Award need to know and should agree to comply with the federal requirements that affect your Applicant's Award and themselves, as Third Party Participants.

b. Subrecipient and Other Third Party Participation. Except when FTA has determined otherwise in writing, your Applicant is ultimately responsible for compliance with all Certifications and Assurances that you select on its behalf, even if the Award and some or all of the activities therein will be carried out by Subrecipients or other Third Party Participants. Therefore, FTA strongly recommends that you take appropriate measures to ensure that Subrecipients and other Third Party Participants involved in carrying out your Applicant's Award do not take actions that will cause your Applicant to violate the representations made in its Certifications and Assurances.

c. Submit Your Applicant's Certifications and Assurances. You must submit all Categories of the FY 2017 Certifications and Assurances that apply to your Applicant and the Award(s) it seek in FY 2017. For your convenience, FTA recommends that you submit all twenty-three (23) Categories of Certifications and Assurances. Those provisions of the Certifications and Assurances that do not apply to your Applicant or its Award will not be enforced.

d. Submit Your Applicant's Required Documentation. You must ensure that your Applicant has submitted to FTA a correct, current version of the following documents: (1) Authorizing Resolution; (2) Opinion of Counsel; and (3) Designation of Signature Authority. A new Authorizing Resolution may be needed if a previous

Authorizing Resolution does not cover the work in the new application. A new Opinion of Counsel may be needed if your Applicant's legal status has changed. FTA requires that the Designation of Signature Authority reflect the current status of the appropriate officials with authority to bind your Applicant. Should you already have documentation on file reflecting the correct status of your Applicant's officials, further action to simply update the Designation of Signature Authority is not required. Sample templates for the above documents may be accessed at <https://www.transit.dot.gov/trams>. You must upload any updated documents concurrently with your Certifications and Assurances.

e. Obtain the Affirmation of Your Applicant's Attorney. You must obtain an affirmation of your Applicant's Attorney, signed in FY 2017, stating that your Applicant has sufficient authority under its state and local laws to certify its compliance with the FY 2017 Certifications and Assurances that you have selected on its behalf; the Certifications and Assurances have been legally made and constitute legal and binding obligations on your Applicant; and there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of your Applicant's FTA assisted Award. Your Applicant's Attorney must sign this affirmation during FY 2017. An Affirmation of your Applicant's Attorney dated in a previous fiscal year is insufficient, unless FTA expressly determines otherwise in writing.

f. When to Submit.

(1) If your Applicant is applying for federal assistance under any of FTA's competitive capital programs (e.g., New Starts, Small Starts, or Core Capacity Improvement) or formula programs, FTA expects to receive your Applicant's FY 2017

Certifications and Assurances within ninety (90) days from the date FTA opens its new electronic award and management system, Transit Award Management System (TrAMS) or soon after the submittal of your Applicant's request for federal assistance for FY 2017.

(2) If your Applicant seeks federal assistance from an FTA program other than a formula program or a discretionary capital or operating program, e.g., for a Public Transportation Innovation (formerly, Research, Development, Demonstration, and Deployment) Award, FTA expects to receive your Applicant's FY 2017 Certifications and Assurances with the submission of its Application for federal assistance or an amendment soon thereafter.

4. Where Are FTA's FY 2017 Certifications and Assurances?

FTA's FY 2017 Certifications and Assurances are available at:

- a. FTA's Web site, www.transit.dot.gov, and
- b. TrAMS, including at <https://www.transit.dot.gov/trams>.

5. What Changes Have Been Made Since the FY 2016 Certifications and Assurances were Published?

The most significant changes are:

- a. In the Preface, we added master credit agreement and State Infrastructure Bank (SIB) to the list of instruments to which the Master Agreement applies.
- b. In Category 1.E, "Suspension and Debarment Certification," we have added two new certifications: Category 1.E.2, "Tax Liability," and Category 1.E.3, "Felony Convictions."

c. In Category 5.B, “Bus Testing,” we note that FTA regulations, “Bus Testing,” 49 CFR part 665 are now consistent with 49 U.S.C. 5318.

d. In Category 8.B, “Acquisition of Capital Assets by Lease,” we have added an exception to our Capital Leases regulations to provide an exception for rolling stock and related equipment subject to the provisions of section 3019(c) of the FAST Act.

e. In Category 9.A, Transit Asset Management Plan,” we have added references to FTA regulations, “Transit Asset Management,” 49 CFR part 625.

f. In Category 9.B, “Public Transportation Safety,” FTA is required to establish a comprehensive Public Transportation Safety Program. Three provisions of this Program include the National Public Transportation Safety Plan, the Public Transportation Safety Certification Training Program, and the Public Transportation Agency Safety Plan (See 49 U.S.C. 5329(b) through (d)). FTA believes consolidating these provisions into one certification is appropriate for the FY 2017 List of Certifications and Assurances.

g. We added a new Category 9.C, “State Safety Oversight Requirements, which references to 49 U.S.C. 5329(e) and FTA regulations, “State Safety Oversight,” 49 C.F.R. part 674.

h. In Category 11, “Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement),” we have added a reference to:

(1) FTA Regulations, “Transit Asset Management,” 49 CFR part 625, and

(2) The updated “Final Interim Policy Guidance, Federal Transit Administration Capital Investment Grant Program,” June 2016.

i. In Category 12, “State of Good Repair Program,” we have added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

j. In Category 13.A, “Grants for Buses and Bus Facilities Program,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

k. In Category 13.B, “Low or No Emission Vehicle Deployment,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

l. In Category 14.A, “Urbanized Area Formula Grants Program,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

m. In Category 14.B, “Passenger Ferry Grant Program,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,”

49 CFR part 625.

n. In Category 15, “Enhanced Mobility of Seniors and Individuals with Disabilities Programs,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,”
49 CFR part 625.

o. In Category 16.A, “Formula Grants for Rural Areas Programs,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,”
49 CFR part 625.

p. In Category 16.B, “Appalachian Development Public Transportation Program,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,”
49 CFR part 625.

q. In Category 17, “Tribal Transit Programs (Public Transportation on Indian Reservations Programs,” we have added a reference to FTA Regulations, “Transit Asset

Management,” 49 CFR part 625.

r. In Category 18, “State Safety Oversight Grant Program,” we have:

(1) Explained that, depending on how far the Recipient has progressed in developing a State Safety Oversight program fully compliant with 49 C.F.R. part 674, the following FTA regulations will apply:

(a) The Recipient agrees that FTA regulations, “State Safety Oversight,” 49 C.F.R. part 674, will apply when its State Safety Oversight program is fully compliant with FTA’s requirements, but

(b) The Recipient agrees that FTA regulations, “Rail Fixed Guideway Systems; State Safety Oversight,” 49 C.F.R. part 659, will continue to apply to those states that have not yet implemented a fully compliant Public Transportation Safety Program.

(2) Added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

s. In Category 20, “Expedited Project Delivery Pilot Program,” we have added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

t. In Category 21.A, “Transportation Infrastructure Finance and Innovation Act (TIFIA) Program,” we have:

(1) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(2) Added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

u. In Category 21.B, “State Infrastructure Banks (SIB) Program, we have:

(1) Noted that the U.S. DOT Build America Bureau will enter into SIB Cooperative Agreements with the state,

(2) Added references to 49 U.S.C. 5329(b) guidance and other final regulations and directives, in effect or when issued, that implement the Public Transportation Safety Programs authorized by 49 U.S.C. 5329, and

(3) Added a reference to FTA Regulations, “Transit Asset Management,” 49 CFR part 625.

6. How do you submit the Certifications and Assurances?

a. Electronic Submission. Except in rare circumstances and if permitted by FTA, you must submit your Applicant’s FY 2017 Certifications and Assurances and your attorney’s Affirmation in TrAMS. To submit the Certifications and Assurances, you must be registered in TrAMS. TrAMS contains fields for individually selecting among the twenty-three (23) Categories of Certifications and Assurances that apply to your Applicant and also a designated field for selecting all twenty-three (23) Categories, of which only the requirements that apply to you or your Applicant will be enforced.

As an authorized representative of the Applicant, you must enter your personal identification number (PIN), which is your electronic signature, in TrAMS. The Attorney must enter his or her PIN in TrAMS, affirming your Applicant’s legal authority to make and comply with the Certifications and Assurances you have selected on its behalf. You may enter your PIN in place of the Attorney’s PIN, provided that your Applicant has on file and uploads to TrAMS a similar affirmation that has been written,

dated, and signed by its Attorney in FY 2017.

b. Paper Submission. Only in very limited circumstances may your Applicant submit its FY 2017 Certifications and Assurances solely on paper. For example if the Applicant has demonstrated that it is unable to submit its Certifications and Assurances electronically in TrAMS or is a one-time recipient, and if FTA has agreed in writing to accept your Applicant's Certifications and Assurances on paper, then your Applicant may indicate the Categories of Certifications and Assurances your Applicant is submitting in typewritten hard copy on the Signature Pages.

To do so, you may place a single mark in the designated space to signify your Applicant's agreement to comply with all Categories of Certifications and Assurances to the extent that they apply to it, or select the specific Categories of Certifications and Assurances that apply to your Applicant and its Award. You must obtain your Attorney's signature, whether on the Signature Page or on a separate document that makes the same affirmation as on the Signature Page. In such a case, the Regional Office or the Headquarters Program Office must attach the paper submission to TrAMS.

For more information, you may contact the appropriate FTA Regional or Metropolitan Office.

AUTHORITY. 49 U.S.C. chapter 53; the Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, December 4, 2015; and other federal laws administered by FTA; U.S. DOT and FTA regulations codified or to be codified in Title 49, Code of Federal Regulations; and FTA Circulars.

Issued in Washington, DC.

Matthew Welbes
Executive Director

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